

*John Earl of* } against *Sr. Arthur Shaen Baronet.*  
*Kildare.*

The Earl's CASE upon his Petition before the Lords.

3d and 4th  
of May  
1658.

THE Lands in Question were by Lease and Release of that Date pursuant to Marriage-Articles Settled upon *Wentworth*, late Earl of *Kildare*, for Life, and from and after his Decease to his Eldest Son (which is the present Earl) and all other Sons of that Marriage in Taile Male.

1663. On Earl *Wentworth's* Decease, the said Lands veited in, and came to the now Earl of *Kildare*, as Issue in Taile, and Eldest Son of that Marriage.

1696. *Sr. Arthur Shaen* (without making Earl *John* a Party) Exhibits a Bill in Chancery in *Ireland*, against *Handcock* and *Hatfield*, the Earl's Tenants, to compel them to Attorn Tenants and pay their Rents to him, incur'd since the 25th of March 1686, and the growing Rents, and to have the Possession of the Lands Decreed him.

5th of February 1699.

The Court Decreed the same accordingly.

28th of April 1701.

Upon an Appeal before the Lords, their Lordships reversed that Decree, because Earl *John* was no Party, And Ordered *Sr. Arthur* to amend his Bill and make him a Party, and that the Earl should put in his Answer before *Michaelmas* Term then next, so that the Cause might come on to be heard in *Ireland* as soon as may be.

13th of May 1701.

It was further Ordered, that *Handcock* and *Hatfield*, the Tenants, should bring the Arrears of Rents then in their hands, and the growing Rents into the Court of Chancery in *Ireland*, there to remain until the determining of the Cause.

The Earl accordingly put in his Answer by the time limited, and pressed *Sr. Arthur* to bring on his Cause, but he having no right to the Estate in Question, never intends to bring on the Cause, but insists on Privilege of Parliament, and hinders the Tenants from paying their Rents to the Earl.

Whereupon his Lordship has Petitioned the House of Lords to discharge that Part of their Order which directs the Tenants bringing their Rents into Court.

*Sr. Arthur*, in his Answer put into the Earl's Petition, says, the only reason why he does not proceed to hear his Cause, is because Earl *John* has got in his custody a tripartite Deed of the 31st of December 1659, made by Earl *Wentworth*, before Earl *John* was born, on which Deed *Sr. Arthur's* Title entirely depends, and hopes the Lords will not discharge that Part of their Order until Earl *John* produce that Deed, and that the Lords will compel him to produce that Deed.

Earl *John* by his Answer to *Sr. Arthur's* Bill, denies that he has, or ever had, any such Deed or knows that there was any such Deed.

So that unless the Earl can produce a Deed, that he has not, and knows nothing of, *Sr. Arthur* would have the Earl to receive no more Rents of the Estate Settled on him in consideration of his Father's Marriage, and 6000 l. Marriage Portion, and that barely on *Sr. Arthur's* Suggestion, that there was a Subsequent Deed which destroyed the Marriage Settlement, which cannot be presumed, the Marriage Settlement being Prior and without Power of Revocation.

*N. Guidott*